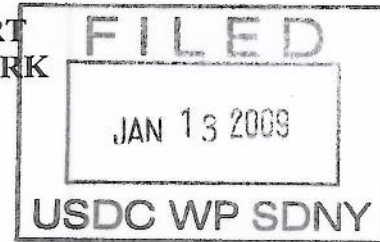


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



JPMORGAN CHASE BANK, N.A.,)

Plaintiff,)

v.)

HOSTWAY CORPORATION,)

Defendant.)

No. ~~09~~ CIV. 0335

JUDGE LEISURE

NOTICE OF REMOVAL

TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK:

Defendant Hostway Corporation, by its attorneys, and pursuant to 28 U.S.C. §§ 1441 and 1446, hereby removes to this Court an action now pending in the Supreme Court of the State of New York, County of New York, styled *JPMorgan Chase Bank, N.A. v. Hostway Corporation*, No. 650492/08 (the "State Court Action"). A copy of this Notice of Removal is being filed with the Clerk of the Supreme Court of the State of New York, County of New York, thereby removing the State Court Action to this Court. The following is a short and plain statement of the grounds for removal of the State Court Action to this Court:

1. On or about December 11, 2008, plaintiff JPMorgan Chase Bank, N.A. commenced the State Court Action by filing its Complaint against defendant Hostway Corporation in the Supreme Court of the State of New York, County of New York.

2. Summons and Complaint in the State Court Action was served on Hostway Corporation's registered agent in Chicago, Illinois on December 15, 2008. Service of Summons

and Complaint was Hostway Corporation's first receipt, through service or otherwise, of plaintiff's Complaint.

3. To date, no other pleading or paper has been filed in the State Court Action. The time for Hostway Corporation to answer or otherwise plead in response to the Complaint has not expired, and Hostway Corporation has not yet filed an answer or other responsive pleading to the Complaint.

4. Plaintiff alleges in the Complaint that Hostway Corporation committed a default of the parties' ISDA Master Agreement by failing to timely supply certain financial statements and reports, and that plaintiff as a result designated an early termination date obligating Hostway Corporation to pay an early termination fee in the amount of \$2,349,000.00.

5. The Complaint seeks damages in the amount of \$2,349,000.00, together with out-of-pocket expenses, including legal fees, among other relief.

5. Plaintiff is a national banking association organized and existing under the laws of the United States of America. In its Complaint, plaintiff alleges that it has "offices in New York County." (Complaint ¶ 9). For purposes of diversity jurisdiction under 28 U.S.C. § 1332(a)(1), a nationally chartered bank is a citizen of the State in which it is "located." That means it is a citizen of the State in which its main office, as set forth in its articles of association, is situated. Plaintiff's articles of association designate its main office to be in the State of Ohio. For diversity purposes, therefore, plaintiff is a citizen of the State of Ohio.

6. Hostway Corporation is an Illinois corporation with its principal place of business in Chicago, Illinois.

7. The State Court Action is an action of which this Court has original subject matter jurisdiction under 28 U.S.C. § 1332(a)(1), in that it is a civil action between citizens of different States wherein the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

8. This Notice of Removal is filed within 30 days of the receipt by Hostway Corporation of plaintiff's Complaint, and Hostway Corporation's time to answer or otherwise plead in response to the Complaint has not expired.

9. Attached hereto as Exhibit A is a copy of all process, pleadings and orders served on Hostway Corporation in the State Court Action

WHEREFORE, defendant Hostway Corporation hereby removes the State Court Action to this Court pursuant to 28 U.S.C. §§ 1441 and 1446.

Dated: White Plains, New York
January 13, 2009

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